

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

GUY GORDON MARSH,

Petitioner,

v.

**Civil Action No. 3:13cv15
Criminal Action No. 3:10cr76
(Judge Bailey)**

USA,

Respondent.

ORDER GRANTING PETITIONER'S MOTIONS TO AMEND [66] and [68]

The *pro se* petitioner initiated this § 2255 habeas action on February 15, 2013. On that same date, the Clerk of Court issued a Notice of Deficient Pleading which instructed the petitioner that he must file his petition on this Court's approved form. On March 7, 2013, the petitioner filed his court approved form. On March 12, 2013 an Order was entered directing the respondent to answer. Currently pending is the petitioner's Motion to make second Amendment [66] which was filed on April 4, 2013, and petitioner's Motion to Amend [68] which was filed on April 8, 2013 and the respondent's Motion to Dismiss the petition [67] which was filed on April 8, 2013.

Pursuant to Rule 15(a)(1) of the Federal Rules of Civil Procedure, a party may amend its pleading once as a matter of course 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. In all other cases, a party may amend its pleadings only with the opposing party's consent or the court's leave. The court should freely give leave when justice so requires. See Rule 15(a)(2). The court finds that the interests of justice dictate that he be permitted to amend. Therefore, the motion [Doc. 66] and the motion

[Doc.68] is **GRANTED**. However, in order to ensure that all of the petitioner's claims are properly addressed, it is further **ORDERED** that the petitioner file an amended court-approved form on which he shall set forth each and every claim which he is making, including the allegations addressed in his Motions to Amend [66] and [68]. The **Clerk of Court is DIRECTED** to send the petitioner a blank 2255 form petition. **The petitioner shall have twenty-one (21) days from the date of entry of this Order to file his Amended Motion on the court-approved form.** The petitioner is advised that the Amended Motion will supersede his original § 2255 motion, and only the allegations raised in his Amended Motion to Vacate will be considered. To aid the petitioner, the **Clerk is directed to send the petitioner a copy of his original Motion to Vacate (without exhibits)** [Doc. 56] and his form Motion to Vacate [Doc. 66 and Doc. 68]. The **respondent shall have twenty-one (21) days from the date the Amended Motion to Vacate is filed within which to file any additional answer.**

IT IS SO ORDERED.

The Clerk is directed to mail a copy of this Order to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as reflected on the docket sheet. The Clerk is further directed to transmit a copy to counsel of record via electronic means.

DATED: 4-9-2013



DAVID J. JOEL
UNITED STATES MAGISTRATE JUDGE